

Message Text

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ORIGIN EB-11

INFO OCT-01 EUR-25 ADP-00 CAB-09 CIAE-00 COME-00 DODE-00

INR-10 NSAE-00 RSC-01 FAA-00 L-03 INRE-00 /060 R

DRAFTED BY EB/ AN: PJGLASOE: VLV

4/25/73 EXT. 20587

APPROVED BY EB/ AN: MHSTYLES

CAB - MR. F. MURPHY (SUBS)

EUR/ IB - MR. MCCOWN

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FM SECSTATE WASHDC

TO AMEMBASSY MADRID IMMEDIATE

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E. O. 11652: N/ A

TAGS: ETRN, SP

SUBJECT: CIVAIR - SPANTAX CHARTERS

REF: FERGUSSON TELECON APRIL 25

1. FACTS ON SPANTAX CHARTER PROBLEM ARE FOLLOWING:

FILING FOR 18 ROUNDTRIP ITC CHARTER PROGRAM WAS MADE WITH CAB APRIL 9. FIRST FLIGHT WAS PLANNED FOR JUNE 3, AND SIMULTANEOUS APPLICATION FOR WAIVER OF 60- DAY ADVANCE FILING REQUIREMENT WAS MADE BY ATTORNEY (REPRESENTING BOTH SPANTAX AND SPAINTOURS). CAB STAFF REJECTED WAIVER REQUEST ON GROUNDS THAT " GOOD CAUSE" (I. E., CONVINCING JUSTIFICATION) FOR " SHORT- FILING" NOT PROVIDED AND JUNE 3 CHARTER THEREFORE TURNED DOWN. (60- DAY ADVANCE FILING IS MINIMUM PROVIDED FOR IN CAB REGS AND MANY OTHER AIRLINES, INCLUDING US, HAVE HAD CHARTERS TURNED DOWN FOR SIMILAR SHORT FILINGS INCLUDING, IN AT LEAST ONE CASE, A FILING THAT WAS MADE 59 DAYS PRIOR TO THE FLIGHT IN QUESTION.)

ATTORNEY WAS SUBSEQUENTLY ADVISED THAT HE COULD REQUEST
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FORMAL BOARD REVIEW OF TURNDOWN. ON APRIL 18, HE MADE SUCH A REQUEST. HOWEVER, ON APRIL 23, BEFORE REQUEST COULD BE CONSIDERED, ATTORNEY WITHDREW IT, STATING THAT THE FLIGHT HAS BEEN CANCELLED IN THE INTERIM.

THE REAL SPANTAX PROBLEM, WE SUSPECT, IS PROBABLY FATE OF THE REMAINING 17 CHARTERS WHICH, PROPERLY FILED, ARE STILL PENDING BECAUSE OF PROBLEMS WITH VARIOUS POINTS RELATING TO THE ITC ISSUE AS THEY ARE SET FORTH IN THE PROGRAM'S PROSPECTUS. ON APRIL 12, THE CAB WROTE A DETAILED LETTER TO ATTORNEY SETTING FORTH POINTS WHICH HAD TO BE CLARIFIED BEFORE THE PROGRAM COULD BE APPROVED. THE LETTER, AS IS CUSTOMARY IN SUCH CASES, STATED THAT THE CHARTERS "MAY NOT BE SOLD, SOLICITED, OR ADVERTISED UNTIL THE PROGRAM IS BROUGHT INTO COMPLIANCE WITH PART 378 OF THE BOARD'S ECONOMIC REGULATIONS." (PART 378 IS FOUND IN 14 CFR AND COVERS INCLUSIVE TOURS IN DETAIL.)

FOUR OF THE POINTS ARE PURELY TECHNICAL ONES WHICH SHOULD NOT BE DIFFICULT TO RESOLVE. THEY INVOLVE ABSENCE OR INCOMPLETE PRESENTATION OF LANGUAGE REQUIRED BY BOARD'S REGS ON POINTS SUCH AS "RIGHTS TO REFUND," TRIP HEALTH AND ACCIDENT INSURANCE, AND SURETY BOND. AS THE CAB NOTES, THESE ARE ALL "CONSUMER PROTECTION ELEMENTS" WHICH ARE AND HAVE BEEN FOR SOME TIME A BASIC PART OF THE REGULATIONS AND CAN HARDLY CAUSE SERIOUS PROBLEMS FOR ANY LEGITIMATE CHARTER OPERATOR, PARTICULARLY ONE WHICH IS FAMILIAR WITH DOING BUSINESS OUT OF THE US.

THE ONE SUBSTANTIAIVE PROBLEM WITH CHARTER PROGRAM IS THAT AT LEAST SOME OF THE TOURS HAVE SCHEDULED THE REQUIRED THREE STOPS AT POINTS WHICH ARE NOT AT LEAST 50 AIR MILES FROM EACH OTHER. (SEGOVIA AND MADRID ARE THE MAIN EXAMPLE.) THIS ALSO IS NOT A NEW REQUIREMENT IN RELATION TO US REGS GOVERNING ITC CHARTERS, BUT IT IS OBVIOUSLY A DEFICIENCY IN THE PROPOSED PROGRAM WHICH MAY NOT BE QUITE SO SIMPLE FOR THE ORGANIZERS TO REMEDY.

CAB STATES THAT IT HAS HEARD NOTHING FROM THE SPANTAX/SPAIN TOURS ATTORNEY ON SUBSTANCE OF THE ITC PROGRAM SINCE LIMITED OFFICIAL USE

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ITS APRIL 12 LETTER.

WE BELIEVE IT IMPORTANT TO POINT OUT AS WELL THAT PRECEDING PROBLEM RESULTS FROM CAB REQUIREMENT THAT THE PROSPECTUS OF ITC PROGRAMS BE FILED FOR ITS REVIEW TO INSURE THAT THE PROPOSED PROGRAM FULLY COMPLIES WITH THE BOARD'S REGULATIONS GOVERNING SUCH PROGRAMS. (SEPARATE APPROVAL

EACH FLIGHT IN AN APPROVED PROGRAM NOT REQUIRED.) APART
FROM THIS REQUIREMENT AND A REQUIREMENT FOR ADVANCE FILING
OF TGC CHARTER PROGRAMS, THERE IS NO RPT NO US REQUIREMENT
FOR FOREIGN CARRIERS HOLDING CHARTER PERMITS TO OBTAIN
ADVANCE APPROVAL OF CHARTER FLIGHTS. ROGERS

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